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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,873	04/02/2004	Otto Machhammer	239016US0	1032
22850	7590	10/10/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER OHL, TAYLOR V	
			ART UNIT 1625	PAPER NUMBER
			NOTIFICATION DATE 10/10/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OTTO MACHHAMMER,
SVEN CRONE,
FRIEDER BORGMEIER,
KLAUS JOACHIM MULLER-ENGEL,
CHRISTOPH ADAMI and
ARMIN DIEFENBACHER

Application No. 10/815,873
Technology Center 1600

Mailed: October 10, 2008

Before DALE M. SHAW *Chief Appeals Administrator*.
SHAW, *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was received electronically at the Board of Patent Appeals and Interferences on April 15, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is

herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On September 17, 2007, an Examiner's Answer was entered into the record. In the Evidence Relied Upon section, page 3, heading (8), the examiner relied on the following references:

6,858,754	BORGMEIER et al	3-1984
EP 1193240	BOGAN et al	9-1992
WO 00/09260	KARIM et al	3-1999
JP07053448A	KOYASU et al	2-1993
3,766,286	G.A. OLAH	10-1973
4,220,802	AKIYAMA et al	9-1980

T.P. HILDITCH, Catalytic Process in Applied Chemistry, New York, D. Van Nostrand Com. 1929, p. xiii.

A review of the file reveals that reference Ushikubo et al. (U.S. 5,380,933) was used in the application of claims 1-32, as stated in the Grounds of Rejection, paragraph

(9) of the examiner's answer. The Manual of Patent Examining Procedure, in § 1207.02 states:

(8) ***Evidence Relied Upon.*** A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Before further review, the examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of all references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02. Appropriate correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer;
- 2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/dal

Application No. 10/815,873

cc: OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314